

Datsopoulos, MacDonald & Lind, P.C.

LAW OFFICES | EST. 1974

Missoula Offices

Central Square Building
201 W. Main Street, Suite 201
Missoula, MT 59802

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Fax: 406.543.0134

www.dmlaw.com

Hamilton Offices

Hamilton Center
1920 N. First Street, Suite C
Hamilton, MT 59840

Phone: 406.961.9003
Fax: 406.961.9004

www.dmlaw.com

Milton Datsopoulos

Dennis E. Lind
William K. VanCanagan
Rebecca L. Summerville
David B. Cotner
Darla J. Keck
* Terance P. Perry
* Molly K. Howard
Trent N. Baker
Peter F. Lacny
Nathan G. Wagner
* Del M. Post
Joseph R. Casillas
George H. Corn
Kyle C. Ryan
* Brian M. Lebsock
* Jason A. Williams

Ronald B. MacDonald (1946-2002)

* Also admitted in Massachusetts
* Also admitted in North Dakota
* Also admitted in Arizona
* Also admitted in Washington
* Also admitted in Idaho

August 5, 2015

Via: mail

IRS Service Center
P.O. Box 9941 stop 5500
Ogden, UT 84409

To whom it may concern,

Re: Ken Flynn – Tax Years 2008 – 2013 – SSN 516-66-3908
Request for Penalty and Interest Abatement

Statement of Facts:

Taxpayer: Ken Flynn
Address: 400 W Broadway, Suite 101-527, Missoula, MT 59803
Social Security #: 516-66-3908
Phone Number: 406-945-3866

Equitable relief request due to a medical condition and reliance on a tax adviser's assistance pursuant to IRM 20.1.1.3.2.1 and IRM 20.1.1.3.2.2.

46 000 Interest penalty -

EXHIBIT

A

Brief timeline

- The taxpayer relied on an accountant who was asked to retire his license due to his fraudulent activities in regards to taxpayer's matters
- The taxpayer was involved in an accident that resulted in a traumatic brain injury which impaired taxpayer's memory.
- After taxpayer's first accountant retired his license, taxpayer hired second accountant.
- Taxpayer believed that the taxes were previously prepared and filed by the second accountant.
- Taxpayer did not recover from his medical condition until late 2012
- Taxpayer was made aware of his tax obligations in late 2014 once a letter was sent to his office from the Montana state Department of Revenue.
- Taxpayer gave Power of Attorney to accountant to resolve the issue and set up payment plan, however no steps were taken.
- Taxpayer hires third accountant and attorney to resolve the issue and pay his tax obligation.

Ken is in the process of finalizing his taxes so that he can take care of his tax obligation. However, it was only recently that Ken became fully aware of his tax situation due to the failure of his accountant in filing the taxes. Due to the fact that the taxes were not filed, Ken experienced penalties and interest from his tax liabilities. We are respectfully requesting that these penalties and interest be reduced due to Ken's medical condition and the detrimental activity of his previous accountants.

The penalty and interest start from the tax year 2007 forward. However, it was not until 2013 that Ken was made aware of this issue. He relied heavily on his first accountant to handle not only his personal tax matters, but his business matters as well. The accountant continually asked for extensions to Ken's taxes and kept pushing off the filing of the taxes. It is believed that the taxes were extended due to the fact the accountant was performing fraudulent activity in regards to his business concerns.

In 2009, prior to the accident Ken became aware of concerns with the accountant after a property sale returned less than communicated value and documents contained numerous fraudulent statements. Ken approached the Montana accountancy board for help with his issues with the accountant. To the best of Ken's knowledge the accountant was soon thereafter asked to retire his license.

Ken then was involved in a severe auto accident in 2010. This accident created numerous issues with Ken's memory and cognitive functioning. Ken had to heavily rely on others during this time as his medical complications made it problematic to function

7/2/23

Ken Flynn

August 5, 2015

Page 3

on his own. The doctors indicated that the greatest injury that he sustained was to his head. This resulted in memory difficulties for the years 2010, 2011, 2012, and lasting effects into the following years. This was in addition to the symptoms that Ken was previously diagnosed with of Post-Traumatic Stress Disorder. See Attached Exhibit "A".

Although the problematic relationship with the first accountant ended, Ken was now subject to a mental impairment from the accident. Ken sought tax preparation assistance from his second accountant. The second accountant upon seeing that the taxes were not filed for a substantial time undertook the work to prepare Ken's taxes in fall of 2010. Due to the memory loss, Ken's daughter, Fallon, attended a majority of the meetings with the accountant. After multiple conversations with Ken and Fallon about the tax matter and his injuries, Ken and Fallon believed the accountant was preparing and filing the taxes for the years 2007 to 2013.

In fact, Ken took the expense of getting his former spouse to sign all necessary documents to get his taxes resolved. However, only the taxes for the year 2007 were filed. It is unsure why the other tax years were not filed, but there was never any mention of his taxes not being filed. In fact, Ken and Fallon met with the accountant on at least a quarterly basis to discuss issues with Ken's affairs, but Fallon cannot recall ever discussing the fact that there was a tax liability or that Ken needed to file the remaining taxes.

It was not until the end of 2013 wherein Ken received a letter from the Montana Department of Revenue seeking tax obligations did Ken learn that he even had a tax liability. Ken immediately contacted his account about this matter and signed a power of attorney for this matter. However, the accountant failed to take any action to request additional time or relief from Ken's tax liabilities.

Due to the fact that the accountant stopped doing any work for Ken despite accepting the power of attorney, Ken found a third accountant to handle his tax matters. Ken asked that the second accountant transfer all the files to the third accountant's office.

It was at this time that Ken was informed of the large tax obligations which did not seem proper based on his income. The third accountant also informed Ken that the former accountant had not included a Schedule C in his returns. This was despite the fact that Ken had previously included a Schedule C with his returns for his previous tax years. Ken asked the third accountant about the tax obligations and after a review of the returns, the third accountant was able to reduce the tax obligations by approximately \$115,000 for the years 2008 through 2010. See Exhibit "B". The remaining tax returns are being finalized by the accountant presently and are expected to be submitted next week.

7098

Ken Fyfe

August 5, 2015

Page 4

exhibit #1

OK-22-98-BF BMM

2-6-23

Ken is asking that due to these unfortunate circumstances that he be given some form of equitable relief from the penalties and interests associated with his tax obligations. It was because of his situation with the first accountant followed by the accident that placed the situation beyond his control.

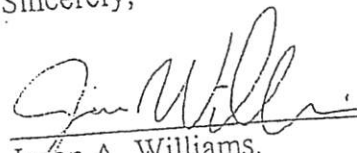
Ken has agreed to settle the tax obligation through the most efficient and effective manner possible. However, because of the situation Ken is unaware of the amount, if any, that is outstanding and due for his penalty and interest during these years. Ken has been placed in a situation where he has been required to expend a substantial amount of funds to correct the actions of others.

To the best of the knowledge of both the taxpayer and the taxpayer's representative:

- The IRS has not previously ruled on the same or a similar issue for the taxpayer, a related taxpayer within the meaning of § 267, or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or a predecessor;
- The taxpayer, a related taxpayer, a predecessor, or any of their representatives have not previously submitted a request involving the same or a similar issue that resulted in a letter ruling or determination letter;
- The taxpayer, a related taxpayer, or a predecessor have not previously submitted a request involving the same or a similar issue that is currently pending with the IRS; or
- At the same time as this request, the taxpayer or a related taxpayer is not presently submitting another request involving the same or a similar issue.

Please feel free to contact our office should you have any questions. We thank you in advance for your consideration of this matter.

Sincerely,


Jason A. Williams.

7698

22-98-95 BMM
Tax Due

2-6-23

	Prior Preparer			Langel			Difference
	US	MT	Combined	US	MT	Combined	
2008	\$ 61,412	\$ 14,115	\$ 75,527	\$ 44,344	\$ 11,036	\$ 55,380	\$ (20,147)
2009	74,697	25,085	99,782	33,886	7,366	41,252	(58,530)
2010	45,758	8,706	54,464	13,675	5,034	18,709	(35,755)
2011	14,303	3,417	17,720	-	-	-	(17,720)
2012	3,789	1,512	5,301	-	-	-	(5,301)
2013	14,716	5,580	20,296	-	5	5	(20,291)
Total Tax	\$ 214,675	\$ 58,415	\$ 273,090	\$ 91,905	\$ 23,441	\$ 115,346	\$ (157,744)

exhibit #1

7c98

May 9, 2014

~~0172-98-68-BB-BN/111~~
exhibit #1.

2-6-23
Jason

RE: FLYNN, Kenneth
DOB: 04/09/1955

To Whom It May Concern:

Mr. Flynn is a 59-year-old male whom I have followed for some time who was involved in a fairly severe motor vehicle accident on January 4, 2010. In that motor vehicle accident, he suffered a head injury as well as an injury to his neck, shoulder, and back. The greatest injury he suffered was to his head and as a result of this head injury he suffers from closed head syndrome which is accompanied with ongoing memory difficulties. The memory difficulties were most profound in 2010, 2011, and 2012 and he has shown some improvement as of late; however, he continues to suffer from some memory deficits.

He also continues to suffer from ongoing symptoms consistent with post-traumatic stress disorder as a result of the accident.

If you need further information or medical documentation, please feel free to contact me.

Sincerely,



Charles L. Dixon, M.D.

CLD/js

scj

Trust Account
320 West Broadway, Suite A, Missoula, MT 59802

First Interstate Bank
2500 North Rosebud
Missoula, MT 59808

Case 4:23-cv-00007-BMM Document 1-2 Filed 02/07/23 Page 7 of 14

Pay Sixty Seven Thousand Dollars and No Cents

\$67,000.00

2-6-23

To the order of IRS

Void after 90 days

File # 82239

⑈ 18126 ⑈ ⑆09290⑆683⑆ ⑆400990⑆47⑈

Amended Complaint CV-22-98-GE-BMM

18126

Stewart Title of Missoula County, Inc.

File: 82239
Buyer: Kenneth J. Flynn; Sherlock Storage, LLC
Seller:
Escrow Officer: Christine Scott
Property Address: 2603 Industry Road, Missoula, MT 59808
Payment for Kenneth J. Flynn

exhibit #1

EXHIBIT

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Datsopoulos, MacDonald & Lind, P.C.

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~~Case 2:23-cv-00007-BMM Document 1-2 Filed 02/07/23 Page 8 of 14~~

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* Jason A. Williams

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* Also admitted in North Dakota
* Also admitted in Arizona
* Also admitted in Washington
* Also admitted in Idaho

November 13, 2015

Via: mail

IRS Service Center
P.O. Box 9941 stop 5500
Ogden, UT 84409

To whom it may concern,

Re: Kenneth Jay Flynn – Tax Years 2014 – SSN 516-66-3908
Request for Penalty and Interest Abatement

Statement of Facts:

Taxpayer: Kenneth Jay Flynn
Address: 400 W Broadway, Suite 101-527, Missoula, MT 59803
Social Security #: 516-66-3908
Phone Number: 406-945-3866

Brief timeline

- Taxpayer hired an accountant to prepare and file his taxes for the years 2007 - 2014.
- Taxpayer believed that the taxes were previously prepared and filed by the accountant.

[Handwritten signature]

2-6-23

- Taxpayer was made aware that the taxes from the previous years were not filed until late 2013 upon receiving a letter from the Montana state Department of Revenue.
- Taxpayer gave Power of Attorney to accountant to resolve the issue and set up payment plan, however he failed to do as no steps were taken.
- Taxpayer was told that an extension had been filed for 2014 so that he could prepare the returns appropriately.
- Taxpayer hires different accountant and attorney in the middle of 2015 to resolve the issue and pay his tax obligation.
- The new accountant reviewed the tax returns prepared by the former accountant and identifies substantial omissions in their preparation as identifies approximately \$157,000 in tax obligation difference.
- The new accountant needed additional time to properly prepare the 2014 tax returns due to the substantial effort in correcting the previous years.

Ken has been working on correcting these errors and has been working with the IRS to assure that he provides the correct information to get his tax obligations satisfied. However, due to the recency of learning about the taxes not being filed it has taken a substantial amount of time to get the taxes prepared. Ken has previously provided information for the years 2008 – 2013 and incorporates those statements by reference to them. See attached Exhibit "A". We are respectfully requesting that any penalties and interest be reduced for the tax year 2014 due to the detrimental activity of his previous accountants.

During a previous conversation with the IRS Ken was able to get penalties and interest cleared out for a business that he owed during the relevant time period. The reasoning was that due to the medical complications that Ken went through and the bad advice that he received from his accountant he was should not be held liable for any penalties or interest during that time.

Ken has been working diligently to get his tax matter straightened out. However, due to the substantial issues that were caused while Ken was impaired it has taken a substantial amount of time to correct these issues. Due to these issues Ken is asking that any penalties or interest attached to his 2014, as well as his previous years, be forgiven.

Ken is also ready to set up a payment plan to get his tax obligations satisfied. He has the ability to make a large substantial up-front payment and then pay an appropriate amount until the full tax obligation is set at a sum certain. However, Ken has been told that until 2014 is filed a payment plan would not be set up. As soon as possible, Ken would like to set up a payment plan for his tax obligations. Once the IRS records the

KJF

2014 tax return Ken will be able to make a \$67,000 for the up-front payment of for the payment plan. See Exhibit "B".

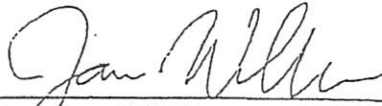
Due to the fact that the accountant stopped doing any work for Ken despite accepting the power of attorney, Ken has been forced to undertake substantial effort and incurred a large amount of expenses to get his matters corrected. Ken is asking that due to these unfortunate circumstances that he be given some form of equitable relief from the penalties and interests associated with his tax obligations. It was because of his situation with the first accountant followed by the accident that placed the situation beyond his control.

To the best of the knowledge of both the taxpayer and the taxpayer's representative:

- The IRS has not previously ruled on the same or a similar issue for the taxpayer, a related taxpayer within the meaning of § 267, or a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504, or a predecessor;
- The taxpayer, a related taxpayer, a predecessor, or any of their representatives have not previously submitted a request involving the same or a similar issue that resulted in a letter ruling or determination letter;
- The taxpayer, a related taxpayer, or a predecessor have not previously submitted a request involving the same or a similar issue that is currently pending with the IRS; or
- At the same time as this request, the taxpayer or a related taxpayer is not presently submitting another request involving the same or a similar issue.

Please feel free to contact our office should you have any questions. We thank you in advance for your consideration of this matter.

Sincerely,


Jason A. Williams.





**WORDEN
THANE P.C.**
ATTORNEYS AT LAW

Established in 1924

Donovan Worden, Sr.
(1892 – 1967)
Donovan Worden, Jr.
(1918 – 2001)
Jeremy G. Thane
(1927 – 2016)

Ronald A. Bender
Martin S. King
Sean M. Morris
Reid J. Perkins
William E. McCarthy
Amy M. Scott Smith
Jesse C. Kodadek
Chris A. Johnson
(MT, WA)

Dana L. Hupp
Martin Rogers
Brand G. Boyar
Natalie L. Black
Elizabeth W. Erickson
Jennifer Shannon
Dillon Kato
Erika D. Colstad

April 28, 2022

***VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL***

Sherlock Storage, LLC
400 West Broadway, Suite 101-527
Missoula, MT 59802

Sherlock Storage, LLC
PO Box 73773
Missoula, MT 59808

Sherlock Storage, LLC
c/o Kenneth J Flynn
400 W Broadway Ste 101 527
Missoula, MT 59802

Re: Fidelity National Title of Montana (formerly Stewart Title) Escrow No. 51229
Our File No.: 18014-001

NOTICE OF DEFAULT

Ladies and Gentlemen:

Please be advised that this law firm represents Holly M. Mohorcich, Trustee of The Mark Mohorcich Irrevocable Trust. The purpose of this letter is to formally notify you that you are in default under the terms of that certain Promissory Note dated November 19, 2015 (and as amended December 5, 2017; March 14, 2019; and February 1, 2021) ("Note"), all executed by you in favor of Holly M. Mohorcich, Trustee of The Mark Mohorcich Irrevocable Trust. Said Note and commercial loan are secured by a Montana Trust Indenture, also executed by you on November 19, 2015, encumbering real property and improvements located at 2603 Industry Rd, Missoula, MT 59808.

PLEASE BE NOTIFIED THAT YOU ARE IN DEFAULT UNDER THE LOAN, NOTE AND DEED OF TRUST for failing to make the payments as required. The loan reached maturity on April 5, 2022, and the full balance is presently due and owing. As of April 5, 2022, the balance due was as follows:

Principal	\$790,260.11
Interest	\$ 18,792.01
Late Charges	\$ 1,162.00
Escrow Fees	\$ <u>52.00</u>

2-6-23

Sherlock Storage, LLC

Page 2

April 28, 2022

24

Total Due \$810,266.12

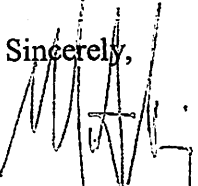
YOU ARE FURTHER IN DEFAULT for failing to pay the real property taxes assessed against the real property and improvements located at 2603 Industry Rd, Missoula, MT 59808, which currently total \$48,222.42 as of April 27, 2022.

Interest and late charges continue to accrue on all outstanding sums. Please contact our office at (406) 721 3400 or (800) 337 3567 to determine the loan balance on any particular day.

YOU ARE FURTHER NOTIFIED that if the loan is not fully paid by no later than May 16, 2022, by tendering to Fidelity National Title in verified funds, all sums due under the Loan and Note including accrued interest and late charges, Holly M. Mohorcich, Trustee of The Mark Mohorcich Irrevocable Trust will exercise any and all of its remedies allowed under the Note and Montana Trust Indenture including foreclosure of the trust indenture that encumbers the real property located at 2603 Industry Rd, Missoula, MT 59808.

Thank you for your prompt attention to this matter. Please contact me with questions.

Sincerely,


Martin S. King

cc: Holly Mohorcich
Fidelity National Title

298

25

2-6-23

Advanced ^



No results were found for
"The Mark Mohorcich
Irrevocable Trust "

Try your search again with
different filters or a different
search term.



7/2/23



Department of the Treasury
Internal Revenue Service
Attn: Passport
PO Box 8208
Philadelphia, PA 19101-8208

001475.250349.461707.18165 1 MB 0.515 693



KENNETH FLYNN
400 W BROADWAY ST STE 101 # 527
MISSOULA MT 59802-4136

001475



Notice	SB CP508C
Notice date	August 15, 2022
Taxpayer ID number	516-66-3908
To contact us	Phone International +1-267-941-1004

Page 1 of 5

~~10-27-22~~
2-6-23

Notice of certification of your seriously delinquent federal tax debt to the State Department

Amount due: \$266,638.16

On December 4, 2015, as part of the Fixing America's Surface Transportation (FAST) Act, Congress enacted Section 7345 of the Internal Revenue Code, which requires the Internal Revenue Service to notify the State Department of taxpayers certified as owing a seriously delinquent tax debt. The FAST Act generally prohibits the State Department from issuing or renewing a passport to a taxpayer with seriously delinquent tax debt.

We have transmitted the certification to the State Department that your tax debt is seriously delinquent.

We show that you still owe \$266,638.16. This amount includes penalty and interest computed to 30 days from the date of this notice.

This notice only includes the portion of your tax debt that has been certified to the State Department as seriously delinquent, as defined below. You may have additional tax debt that is not included in this notice.

Billing Summary

Amount of seriously delinquent tax debt owed	\$194,878.86
Failure to pay penalty charges	\$6,841.27
Interest charges	\$64,918.03
Amount due by September 14, 2022	\$266,638.16

What you need to know

Seriously delinquent tax debt is tax debt (including penalties and interest) totaling more than \$55,000* for which:

- We have filed a Notice of Federal Tax Lien and your administrative rights under Internal Revenue Code (IRC) Section 6320 have been exhausted or lapsed, OR
- We have, at any time, issued a levy to collect this debt.

* The \$55,000 threshold is adjusted yearly for inflation.

If you apply for a passport or passport renewal, the U.S. State Department will deny your application and will not issue a passport to you or renew your current passport.

If you currently have a valid passport, the State Department may revoke your passport or limit your ability to travel outside the United States.

Continued on back...